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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 STEVEN BRAUNSTEIN,

10 Petitioner,

11 vs.

12 DWIGHT NEVEN, et al.,

13 Respondents.
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Case No. 2:14-cv-00853-JCM-VCF

ORDER

15 Petitioner has submitted an application to proceed in forma pauperis (#1) and a petition for a
16 writ of habeas corpus. The court finds that petitioner is unable to pay the filing fee. Petitioner
17 characterizes the petition as a “First Amendment Petition,” but he is in custody pursuant to an
18 amended judgment of conviction of a state court, and he is challenging the validity of that custody.
19 The governing statute is 28 U.S.C. § 2254.

20 Petitioner challenged the same amended judgment of conviction in Braunstein v. Cox, 3:11-
21 cv-00587-LRH-WGC. The court dismissed that action because all of his claims were procedurally
22 defaulted. Consequently, this action is a second or successive habeas corpus petition. Henderson v.
23 Lampert, 396 F.3d 1049, 1053 (9th Cir. 2005). Petitioner needs to obtain authorization from the
24 court of appeals before he can proceed with a second or successive petition. 28 U.S.C.
25 § 2244(b)(3).¹
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27 ¹Around the time that petitioner sent the petition in this action to the court, the court
28 dismissed another action, Braunstein v. Cox, 3:13-cv-00666-MMD-WGC, which challenged the
same judgment of conviction, because he did not have authorization to proceed with a successive

1 Reasonable jurists would not find this conclusion to be debatable or wrong, and the court
2 will not issue a certificate of appealability.

3 Petitioner's motion to disqualify magistrate (#4) and motion for declaratory judgment (#5)
4 are moot because the court is dismissing the action.

5 IT IS THEREFORE ORDERED that the application to proceed in forma pauperis (#1) is
6 **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

7 IT IS FURTHER ORDERED that petitioner's motion to disqualify magistrate (#4) is
8 **DENIED** as moot.

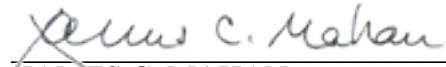
9 IT IS FURTHER ORDERED that petitioner's motion for declaratory judgment (#5) is
10 **DENIED** as moot.

11 IT IS FURTHER ORDERED that the clerk of the court shall file the petition for a writ of
12 habeas corpus.

13 IT IS FURTHER ORDERED that this action is **DISMISSED** as a second or successive
14 habeas corpus petition. The clerk of the court shall enter judgment accordingly.

15 IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

16 DATED: November 25, 2014.

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19 JAMES C. MAHAN
20 United States District Judge
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petition.